

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 314 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JAGDISH KAMANI

Versus

SAURASHTRA UNIVERSITY

Appearance:

MR JJ YAJNIK for Petitioner

MR JR NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 10/02/2000

ORAL JUDGEMENT

The prayer of the petitioner in this petition is for direction in the nature of writ of mandamus directing the respondent no.1 University to get the papers Nos. V, VI, VII and VIII of the petitioner (Seat No.2067 of the examination held in April 1987) reevaluated by any other Professor of any other University so as to avoid

influence by Shri Y.K.Desai, respondent no.2.

2. The petitioner joined the course of M.A. (Psychology) at Virani Arts and Commerce College, Rajkot. Shri Y.K.Desai is the Head of the Department of the P.G.Centre of Psychology. For Paper No.5 the petitioner was given option to opt for dissertation. Dissertation is one of the essential items prescribed in the Saurashtra University syllabus for M.A. Psychology. The petitioner opted for Dissertation. It is alleged that it was against the wishes of the respondent no.2 Shri Y.K.Desai, as he is opposed to dissertation. Shri Y.K.Desai was guide of the petitioner for Dissertation. The petitioner appeared in Paper Nos.6,7 & 8. However Paper No.5 of Dissertation was not proceeded by Shri Y.K.Desai and the petitioner failed to carry the dissertation of Paper No.5. In the year 1986 the guide was changed and Shri M.K.Kothari was the guide of the petitioner. The petitioner submitted Paper No.5 in 1987. He appeared in the examination of Paper No.1 to 4 in June 1986. The second allegation has been made against Shri Y.K.Desai alleging that he being the Head of the Department exercised undue influence and that the answer books which were to be sent to foreign examiners were sent to Shri Y.K.Desai and he used to get the answer books evaluated at his residence. It is alleged that since Shri Y.K.Desai was against the petitioner he was declared failed showing that the marks in all the papers were below 50%. It was alleged that this was nothing but victimization of the petitioner in the hands of Shri Y.K.Desai. Representation was made by the petitioner for reevaluation of his answer books which was turned down. It was alleged that on similar circumstances, one Mr.Juthani applied for reevaluation of M.A. Dissertation Examination of 1997 on account of injustice caused to her of similar nature. Reevaluation was granted to her and her marks were raised from 42% to 63%. Alleging violation of Article 14 of the Constitution of India and discrimination of the petitioner viz-a-viz Ms.Juthani, this petition was filed. Copy of the counter affidavit was given to the petitioner's Counsel on 27.2.1991. No rejoinder has been filed so far.

3. In the counter affidavit all the allegations against Shri Y.K.Desai had been denied by him. The gist of the counter affidavit is that because of delayed submission of Dissertation by the petitioner that his final result was withheld. His result in the first four papers was declared in time and that since Dissertation was submitted in 1987 his result was declared for Part II Examination and he was declared successful for which para

4 & 6 of the counter affidavit can be referred. From the counter affidavit it is now clear that the petitioner was declared successful in 1987. Consequently no occasion arises for a direction for reevaluation of his answer books. Since counter affidavit has not been controverted through a rejoinder affidavit it can be said that simply because the petitioner delayed submission of his dissertation till 1987 that he could be declared successful only in the year 1987 after he submitted his dissertation.

4. In the result there is no merit in this petition which is hereby dismissed. There will be no order as to costs.

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